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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
PROUDFOOT et al.	:	LETTER REGARDING PATENT
Application No. 10/510,658	:	TERM ADJUSTMENT
Filed: May 18, 2005	:	
Attorney Docket No. ARS-104	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 7, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants state that the patent term adjustment should be corrected from 212 days to zero (0) days.

The request for review of the determination of patent term adjustment is granted.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants assert that the Office should not have been assessed a delay of 254 days under 37 CFR 1.702(a)(1). The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 212 days is incorrect.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

- (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

The date of completion of all 35 U.S.C. 371 requirements is May 18, 2006. Therefore, the date of May 18, 2006, and not May 18, 2005, should be used for calculating adjustment of the patent term under 37 CFR 1.702(a)(1). On March 29, 2007, the Office mailed a Restriction Requirement to applicants within fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 (i.e. July 19, 2007).

Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) is zero (0) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **zero (0) days**.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.


Kerry A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Tuesday
Date: 8/12/2008

PALM INTRANET

Time: 16:09:06

PTA Calculations for Application: 10/510658

Application Filing Date:	05/18/2005	PTO Delay (PTO):	254
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	42
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-254		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		254	
53	02/04/2008	MAIL NOTICE OF ALLOWANCE			
52	01/31/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	01/28/2008	ISSUE REVISION COMPLETED			
50	01/28/2008	DOCUMENT VERIFICATION			
49	01/28/2008	NOTICE OF ALLOWABILITY			
48	12/20/2007	DATE FORWARDED TO EXAMINER			
47	12/12/2007	SUPPLEMENTAL RESPONSE		13	41
46	12/18/2007	DATE FORWARDED TO EXAMINER			
45	12/12/2007	SUPPLEMENTAL RESPONSE			
44	11/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	12/05/2007	DATE FORWARDED TO EXAMINER			
41	11/29/2007	RESPONSE AFTER NON-FINAL ACTION		29	38
40	11/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/31/2007	MAIL NON-FINAL REJECTION			
37	07/24/2007	NON-FINAL REJECTION			
36	11/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	06/19/2007	DATE FORWARDED TO EXAMINER			
34	06/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
33	05/14/2007	MAIL RESTRICTION REQUIREMENT			

32	05/11/2007	REQUIREMENT FOR RESTRICTION / ELECTION				
31	05/02/2007	DATE FORWARDED TO EXAMINER				
30	04/30/2007	RESPONSE TO ELECTION / RESTRICTION FILED				
29	03/29/2007	MAIL RESTRICTION REQUIREMENT	254		-1	
28	03/26/2007	REQUIREMENT FOR RESTRICTION / ELECTION				
27	01/04/2007	PG-PUB ISSUE NOTIFICATION				
26.7	11/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
26	11/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
25	10/24/2006	CASE DOCKETED TO EXAMINER IN GAU				
24	04/21/2006	PRELIMINARY AMENDMENT				
22	05/18/2006	371 COMPLETION DATE				
21	10/02/2006	APPLICATION DISPATCHED FROM OIPE				
20	08/21/2006	ADDITIONAL APPLICATION FILING FEES				
19	08/21/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT				
18	08/24/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE				
17	07/07/2006	CLEARED BY OIPE CSR				
16	07/07/2006	CLEARED BY OIPE CSR				
15	07/07/2006	CLEARED BY OIPE CSR				
14	07/07/2006	CLEARED BY OIPE CSR				
13	07/07/2006	CLEARED BY OIPE CSR				
12	07/07/2006	CLEARED BY OIPE CSR				
11	04/03/2006	NOTICE OF DO/EO DEFECTIVE RESPONSE MAILED.				
9	05/18/2005	ADDITIONAL APPLICATION FILING FEES				
6	05/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN				
5	05/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT				
4	05/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC				
3	02/10/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE				

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